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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,209	02/10/2005	Masao Yamamoto	SUZ0018-US	9936

7590

01/11/2006

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EXAMINER

SCHWARTZ, JORDAN MARC

ART UNIT	PAPER NUMBER
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2873

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/524,209	Applicant(s) YAMAMOTO, MASAO	
	Examiner Jordan M. Schwartz	Art Unit 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 and 10 is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. PCT/JP03/10229.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/05</u> . | 6) <input checked="" type="checkbox"/> Other: <u>Foreign Reference</u> . |

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. PCT/JP03/10229, filed on August 12, 2003.

Specification

The abstract of the disclosure is objected to because it is required to be in the form of a single paragraph in compliance with the MPEP. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Gertsikov patent number 5,455,640.

Gertsikov reads on these claims by disclosing the limitations therein including the following: an image display device (Figure 3, column 1, lines 7-10); comprising a main body that can be worn on the head of a user (Figure 3); display means for displaying a predetermined image (Figure 3, column 4, lines 3-12, the display means being the display components "14" and "16" for showing

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the time or temperature); the image is blurred beyond the vision of the user when the user wearing the main body on his or her head looks straight ahead (Figure 3, the display components "14" and "16" are above the user's straight ahead line of sight and therefore would be a blurred image when the user looks straight ahead similar to the claimed invention); the user gets a clear vision of the image when the user moves his or her straight-looking eyes away (Figure 3, the user gets a clear vision when looking upward at the display components); the display means being provided on the main body at a position that cannot be seen from anyone other than the user (Figure 3, the display components "14" and "16" can only be seen by the user). Gertsikov further discloses the main body provided in the shape of a glasses frame (Figure 3); at least a part of the frame is not clearly visible when the user looks straight ahead (Figure 3, the top portion of the frame containing the display components "14" and "16"); the display components being provided on or in the frame (Figure 3); the main body as an elongated front unit placed in front of the eyes of a user along a direction parallel to a line connecting the eyes (Figure 3, the front main portion "22" is an elongated front unit and is placed in front of the eyes of a user along a direction parallel to a line connecting the eyes); a fixing unit for mounting the front unit on the head of a user (Figure 3, temples "28" as the fixing unit); the display means provided on the front unit (Figure 3); the display means as a pair of display means on or in the main body in one to one correspondence with the right and left eyes of the user (Figure 3, display means "14" and "16").

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Claims 1-3, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Furness et al patent number 5,162,828.

Furness reads on these claims by disclosing the limitations therein including the following: an image display device (abstract); comprising a main body that can be worn on the head of a user (Figures 5, 18-19); display means for displaying a predetermined image (Figure 5, column 5, line 40, display means within 24", Figures 18-19, 22-23, column 9, line 20, the display means within the frame 136); the image is blurred beyond the vision of the user when the user wearing the main body on his or her head looks straight ahead (Figure 5, column 5, lines 30-47, the display means are viewed through mirror 25" located above the user's straight ahead line of sight and therefore would be a blurred image when the user looks straight ahead similar to the claimed invention, and Figures 18-19 and 22-23, column 9, lines 20-23, the display means are viewed through mirror 120 located below the user's straight ahead line of sight and therefore would be a blurred image when the user looks straight ahead similar to the claimed invention); the user gets a clear vision of the image when the user moves his or her straight-looking eyes away (Figure 5, the user gets a clear view only when looking upward at the mirror, Figures 18-19, 22-23, the user gets a clear view only when looking downward at the mirror); the display means being provided on the main body at a position that cannot be seen from anyone other than the user (Figures 5, the display means on the inner portion of the dive mask and can only be seen by the user, Figures 18-19, the display means are within the frame and can only be seen by the user, similar to the claimed

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invention). Furness et al further discloses the main body provided in the shape of a glasses frame (Figures 18-19); at least a part of the frame is not clearly visible when the user looks straight ahead (Figures 18-19, the top portion of the frame containing the display component); the display component being provided on or in the frame (Figures 18-19, 22-23, column 9, line 20); the main body as an elongated front unit placed in front of the eyes of a user along a direction parallel to a line connecting the eyes (Figures 5 and 18-19, the front main portion containing the transparencies or glasses as an elongated front unit and is placed in front of the eyes of a user along a direction parallel to a line connecting the eyes); a fixing unit for mounting the front unit on the head of a user (Figure 5, the strap, Figure 19, the temples); the display means provided on the front unit (Figures 5 and 18-19); the main body receiving an image signal by wire or wireless to display an image from outside with the display means adapted to display an image from the image signal received by the display means (column 10, lines 2-8); and the display means positioned so that the user gets a clear vision when viewing down (Figures 22-23).

Claims 1-3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by PCT WO94/09398 (herein referred to as "WO'398").

WO'398 reads on these claims by disclosing the limitations therein including the following: an image display device (abstract); comprising a main body that can be worn on the head of a user (Figures 3 and 5); display means for displaying a predetermined image (abstract, Figures 3 and 5); the image is blurred beyond the vision of the user when the user wearing the main body on

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his or her head looks straight ahead (Figure 3, the display means located above the user's straight ahead line of sight and therefore would be a blurred image when the user looks straight ahead similar to the claimed invention, and Figure 5 the display means on the temple arms and therefore would be a blurred image or beyond the vision of the user when the user looks straight ahead similar to the claimed invention); the user gets a clear vision of the image when the user moves his or her straight-looking eyes away (Figures 3 and 5); the display means being provided on the main body at a position that cannot be seen from anyone other than the user (Figures 3 and 5). WO'398 further discloses the main body provided in the shape of a glasses frame (Figures 3 and 5); at least a part of the frame is not clearly visible when the user looks straight ahead (Figure 3, the top portion of the frame containing the display component and Figure 5 the temple containing the display component); the display component being provided on or in the frame (Figures 3 and 5); the main body as an elongated front unit placed in front of the eyes of a user along a direction parallel to a line connecting the eyes (Figures 3 and 5 the front main portion containing the glasses as an elongated front unit and is placed in front of the eyes of a user along a direction parallel to a line connecting the eyes); a fixing unit for mounting the front unit on the head of a user (Figures 3 and 5 the temples); the display means provided on the front unit (Figure 3); the main body receiving an image signal by wire or wireless to display an image from outside with the display means adapted to display an image from the image signal received by the display means (page 7, line 30 to page 8, line 2).

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gertsikov or Furness et al or WO'398.

Gertsikov and Furness et al and WO'398 disclose as is set forth above but do not specifically disclose the front unit in the shape of a rod or a thin narrow plate. However, it has been held that matters relating to ornamentation only which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art. In re Seid, 161 F.2d 229, 73 USPQ 431 (CCPA 1947). The claimed front unit in the shape of a rod or thin narrow plate goes to ornamentation only. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the front unit of Gertsikov or Furness et al or WO'398 in the shape of a rod or a thin narrow plate since it has been held that matters relating to ornamentation only which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO'398.

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WO'398 discloses as is set forth above including the display means having a light source page 7, line 28); the display means as liquid crystal display means that use the light source for backlight (page 2, line 5, page 7, line 28); all contained within the main body (Figures 3 and 5). WO'398 discloses as is set forth above but does not specifically disclose an "optical system" to guide the image to the outside. However, the examiner takes Judicial Notice that it is well known in optical devices to use lenses or filters i.e. "an optical system" with liquid crystal displays for the purpose of enhancing the image. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the display system of WO'398 as further comprising an optical system such as a lens or filter attached to the outer portion of the liquid crystal display for the purpose of providing an enhanced image.

Prior Art Citations

Geist publication number 2003/0184868. Bettinger patent number 6,394, 601, Bettinger patent number 4,806,011, and Vogt et al patent number 5,606,743 are being cited herein to show other image display devices that would have read on a number of the above rejected claims, however, such rejections would have been repetitive.

Allowable Subject Matter

Claims 9-10 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: with respect to the allowable subject matter, none of the prior art either alone or in combination disclose or teach of the claimed combination of

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limitations to warrant a rejection under 35 USC 102 or 103. Specifically, with reference to independent claims 9-10, none of the prior art either alone or in combination, disclose or teach of the claimed image display device, specifically including, as the distinguishing features in combination with the other limitations, the claimed display means including a light source, liquid crystal display means, reflecting mirror, and ocular lens as claimed, all within the main body, and the ocular lens not clearly visible when the user looks straight ahead and which becomes clearly visible when the user moves his or her straight looking eyes away, and the ocular lens provided at a position that cannot be seen from anyone other than the user.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jordan M. Schwartz whose telephone number is (571) 272-2337. The examiner can normally be reached on Monday to Friday (8:30 to 4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached at (571) 272-2333. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'J. Schwartz', with a large, stylized loop at the end.

Jordan M. Schwartz
Primary Examiner
Art Unit 2873
January 4, 2006